REMARKS

Applicant respectfully requests reconsideration and allowance of the subject application.

Information Disclosure Statement

The Office Action states that the information disclosure statement filed March 24, 2003 (paper No. 3) has not been considered because one or more of the cited references are not legible. The Office Action fails to identify which of the many references are not legible. Therefore, on May 11, 2004, Applicant re-submitted all references cited in that information disclosure statement.

Claim Objections

The Office Action objects to claims 1 and 9 due to certain informalities. Applicant has amended claims 1 and 9 as suggested in the Office Action.

Applicant respectfully requests that the objections to claims 1 and 9 be withdrawn.

35 U.S.C. § 102

Claims 1, 3 and 13 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,464,585 to Miyamoto et al. (hereinafter "Miyamoto"). Applicant respectfully submits that claims 1, 3 and 13 are not anticipated by Miyamoto.

Miyamoto discloses:

> When any of push-button switches on a handheld controller is pressed in a sound input mode, a video game machine generates and temporarily stores frequency data of a tone corresponding to the depressed switch. When a joystick on the controller is tilted to a predetermined direction, the video game machine changes the generated frequency data according to the amount of tilt of the joystick. It is therefore possible to input various sounds in tone using a limited number of switches. The frequency data stored in the video game machine is read later to be converted into audio signals, and outputted from a speaker incorporated in a CRT display. When a melody based on the inputted sound coincides with a predetermined melody set, the video game machine makes various changes in the progress of the game. For example, a hero character can be warped to a position that is different from the present position, or provided with various items. Miyamoto Abstract.

Miyamoto further discloses "a sound generation device which plays music based on tone data inputted with a video game machine controller ...." Col. 1, lines 6-8. The sound generation system of Miyamoto is different from the claims of the present application.

Claim 1, as amended, recites:

> A game console, comprising:
> a memory;
> a processor coupled to the memory; and
> a console application stored in the memory and executable on the processor, the console application configured to allow selection of a plurality of stored audio tracks and further configured to create a soundtrack containing the selected audio tracks.

Although Miyamoto discloses that a video game user may generate individual tones, Miyamoto does not disclose a "console application configured to allow selection of a plurality of stored audio tracks and further configured to create a soundtrack containing the selected audio tracks" as recited in claim 1. Further, the selection of a particular melody for playback discussed in Miyamoto is not the same as selecting a plurality of audio tracks and creating a soundtrack containing those selected audio tracks.

The Office Action cites col. 12, lines 57-67, col. 13, lines 1-4, and col. 15, lines 31-39 and 45-51 as teaching the console application recited in claim 1. Regarding col. 12, lines 57-67 and col. 13, lines 1-4, those portions of Miyamoto disclose an external ROM 21 that stores various data, including audio data. External ROM 21 is a read-only device such that the data stored in ROM 21 cannot be altered. "The external ROM 21 previously stores various programs therein in a fixed manner." (Emphasis Added) Col. 13, lines 2-4. ROM 21 is not capable of creating a soundtrack.

Regarding col. 15, lines 31-39 and 45-51, those portions of Miyamoto disclose various data used during execution of an application program, including audio data. However, the mere disclosure of audio data to be played during execution of an application program (such as a game program) is not the same as providing a console application that selects multiple stored audio tracks and creates a soundtrack containing the selected audio tracks, as recited in claim 1.

Accordingly, Miyamoto fails to disclose the elements of claim 1. Thus, for at least these reasons, Applicant respectfully submits that claim 1 is allowable over Miyamoto. Given that claims 3 and 13 depend from claim 1, Applicant

respectfully submits that those claims are likewise allowable over Miyamoto for at least the reasons discussed above.

35 U.S.C. § 103

Claims 2, 4-12 and 14-20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Miyamoto. Applicant respectfully submits that claims 2, 4-12 and 14-20 are patentable over Miyamoto.

As mentioned above, Miyamoto discloses "a sound generation device which plays music based on tone data inputted with a video game machine controller ...." Col. 1, lines 6-8. The sound generation system of Miyamoto is different from the claims of the present application.

Applicant submits that the Miyamoto reference fails to disclose or suggest a "console application configured to allow selection of a plurality of stored audio tracks and further configured to create a soundtrack containing the selected audio tracks" as recited in claim 1. Nothing in Miyamoto suggests selecting multiple audio tracks and creating a soundtrack containing the selected audio tracks. As discussed above, merely mentioning playback of a particular tone or a melody is not the same as selecting multiple audio tracks and creating a soundtrack with those audio tracks.

Accordingly, Applicant submits that Miyamoto fails to disclose or suggest the elements of claim 1. Given that claims 2 and 4-12 depend from claim 1, Applicant respectfully submits that those claims are likewise allowable over Miyamoto for at least the reasons discussed above.

Claim 14, as amended, recites:

> A game console, comprising:
> a memory; and
> a processor coupled to the memory, the processor being configured to present a first user interface to facilitate selection of stored audio tracks used to create a soundtrack containing the selected audio tracks, the processor further configured to present a second user interface to facilitate playback of soundtracks stored in the memory.

Although Miyamoto allows a video game user to generate individual tones or select an individual melody for playback, Miyamoto does not disclose or suggest "a first user interface to facilitate selection of stored audio tracks used to create a soundtrack containing the selected audio tracks ... a second user interface to facilitate playback of soundtracks stored in the memory" as recited in claim 14.

The Office Action cites col. 15, lines 31-39 of Miyamoto as teaching the creation of a soundtrack. Applicant submits that the cited language discloses data used during execution of an application program, such as audio data. However, the mere disclosure of audio data to be played during execution of an application program is not the same as a selecting multiple stored audio tracks and creating a soundtrack containing the selected audio tracks, as recited in claim 14. Nothing in Miyamoto discloses or suggests this portion of claim 14.

The Office Action admits that "Miyamoto does not disclose presenting an interface for creating a soundtrack." Paragraph 6c, pages 4-5. The Office Action alleges that based on the disclosure at col. 18, lines 41-47 and col. 15, lines 48-52 and 31-39 of Miyamoto, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide an interface to facilitate

inputting the sound and organizing the sound data to the player. Paragraph 6c, page 5. Applicant submits that the cited language fails to disclose or make any suggestion to select multiple stored audio tracks and create a soundtrack containing the selected audio tracks, as recited in claim 14. The cited language merely discloses the playback of audio data during execution of an application program, including playing individual tones as directed by the user of the application. However, the mere playback of audio data is different from and fails to suggest the creation of a soundtrack by selecting multiple stored audio tracks.

Accordingly, Applicant submits that Miyamoto fails to disclose or suggest the elements of claim 14. As such, claim 14 is patentable over Miyamoto. Given that claims 15-20 depend from claim 14, Applicant respectfully submits that those claims are likewise allowable over Miyamoto for at least the reasons discussed above.

New Claims

Applicant respectfully submits that new claims 45-51 are allowable over the Miyamoto reference for at least the reasons discussed above.

Conclusion

Claims 1-20 and 45-51 are in condition for allowance. Applicant respectfully requests reconsideration and issuance of the subject application. Should any matter in this case remain unresolved, the undersigned attorney respectfully requests a telephone conference with the Examiner to resolve any such outstanding matter.

Respectfully Submitted,

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